

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GERALD BUTLER,  
Plaintiffs,

v.

JAMES PHILIP SILVIS, ESQ., O'CONNELL &  
SILVIS LLP,  
Defendants.

09cv1394

**ELECTRONICALLY FILED**

ORDER OF COURT AFFIRMING  
UNITED STATES MAGISTRATE JUDGE AND DISMISSING APPEAL

On December 2, 2009, this Court entered an Order (Doc. No. 11) rejecting plaintiff's Objections to Magistrate Judge Cathy Bassoon's Report and Recommendation that his civil rights complaint be dismissed, adopting the R&R, and dismissing the case. Plaintiff had filed a motion for appointment of counsel to assist him in these proceedings (Doc. No. 7), which the Magistrate Judge denied by text order on November 12, 2009. The text order notified plaintiff that he was "allowed ten (10) days from this date to appeal this order to a district judge pursuant to Rule 72.C.2 of the Local Rules for Magistrates . . . [and that failure] to appeal within ten (10) days may constitute waiver of the right to appeal." *Id.*

Thereafter, on December 7, 2009, plaintiff filed a Notice of Appeal from the Order of November 12, 2009, denying his motion for appointed counsel. This appeal is untimely under our local rules, and also is moot, in light of the dismissal of the complaint. Accordingly, plaintiff's appeal is dismissed.

s/ Arthur J. Schwab  
Arthur J. Schwab  
United States District Judge

cc:  
All Registered ECF Counsel

The Honorable Cathy Bissoon  
United States Magistrate Judge

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